

Ashen



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: A&B Management

File: B-236038

Date: October 4, 1989

DIGEST

Certificate of competency (COC) procedures do not apply when a small business concern's offer in a negotiated procurement is considered weak under technical evaluation factors relating to experience and expertise; the COC program is reserved for reviewing nonresponsibility matters, not the comparative evaluation of technical proposals.

DECISION

A&B Management protests the award of a contract to Gannon Realty Management, under request for proposals (RFP) No. RFP045-89-0001, issued by the Department of Housing and Urban Development (HUD) for area management broker services for HUD-owned or administered properties in Kern County, California. A&B challenges the evaluation of its proposal.

We deny the protest.

The solicitation requested proposals to provide area management broker (AMB) services--including appraising the properties, inspecting and cleaning them, arranging for repairs, administering leases, and assisting in sales--for an estimated 200 properties in Kern County. The solicitation established a minimum requirement of 3 years of experience in the management of single-family properties and required the contractor to possess or establish an adequately staffed and furnished office in the contract area within 15 days after award. The solicitation provided for award to be made on the basis of price and other factors, and specified the following seven technical evaluation criteria: (1) experience as a property manager (30 points), (2) technical expertise (30 points), (3) demonstrated business administration skills (30 points), (4) financial stability (35 points), (5) familiarity with the subject area and real estate practices (15 points), (6) proposals for performing services faster than required (15 points), and (7) providing a suitable office (30 points).

046724/139740

HUD received three proposals, all of which were included in the competitive range; after discussions, all offerors were requested to submit best and final offers (BAFOs). Although A&B submitted a slightly lower price (\$49 per property per month) than Gannon's (\$52.50), its technical proposal received only 137 of the 185 available evaluation points, 25 fewer than Gannon's 162 points. In this regard, the agency questioned the commitment to and availability for this contract of the principal in A&B, Mr. Myrick. Although the proposal indicated Mr. Myrick would be responsible for the direct supervision of the office staff and proposed to spend at least 32 hours per week in the contract area (after conducting initial training for new staff), the agency noted with concern that he (1) lives in Sacramento, California, approximately a 5-hour drive from Bakersfield, where 90 percent of the properties are located; (2) derives 40 percent of his income from the Sacramento area; and (3) is performing another AMB service contract in San Francisco, also a long distance from Bakersfield. By contrast, Gannon's supervising partner proposed to devote 100 percent of his time to the contract. In addition, while both offerors had AMB experience, Gannon's experience in the geographic area was more extensive. As a result, HUD considered Gannon's proposal to be technically superior, and determined that this superiority offset A&B's slightly lower price. Upon learning of the ensuing award to Gannon, A&B filed this protest with our Office.

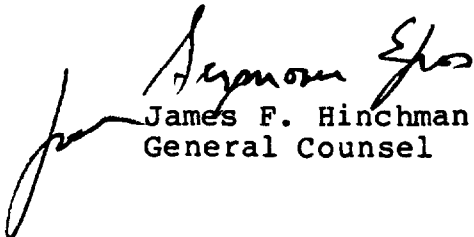
A&B argues that HUD improperly evaluated its proposal on the basis of factors outside the stated evaluation criteria, and that this essentially amounted to a determination of nonresponsibility with respect to the firm. Since A&B is a small business concern, A&B maintains that the matter should have been referred to the Small Business Administration (SBA) for consideration under its certificate of competency (COC) procedures; the firm previously had received a COC in connection with another procurement for AMB services.

We find the evaluation proper. The primary relative weakness identified in A&B's offer--the limitations on the ability of its principal to supervise the provision of services in the contract area--related to specific and identified evaluation criteria set forth in the solicitation. Specifically, since in its proposal A&B emphasized Mr. Myrick's credentials, including his experience as a property manager, technical expertise and familiarity with the subject area, his availability was directly relevant to the evaluation under these criteria and properly was taken into consideration in the technical evaluation. To the extent that these criteria relate to such traditional responsibility factors as adequacy of skilled staff, we note

that it is not improper in a negotiated procurement to include responsibility-type factors among the technical evaluation criteria. Johnson Energy Management Co., Inc., B-234730, June 8, 1989, 89-1 CPD ¶ 540. So long as the factors are limited to areas which, when evaluated comparatively, can provide an appropriate basis for a selection that will be in the government's best interest, COC procedures do not apply to such technical proposal weaknesses. Id. The fact that A&B received a COC under a prior procurement for these services would not render denial of a COC here improper, Kirk Bros. Mech. Contractors, Inc., B-228603, Nov. 12, 1987, 87-2 CPD ¶ 479, and certainly does not render the technical evaluation improper.

We conclude that the agency reasonably considered technically superior the proposal submitted by the offeror with the greatest experience in the contract area and whose experienced principal realistically would be likely to devote significantly more time to the contract. Further, having reasonably found Gannon's proposal technically superior, and in view of the relative closeness of prices, it was within the agency's discretion to make a cost/technical trade-off in determining whether an award to Gannon would be most advantageous to the government under the stated evaluation criteria. See generally Spectra Technology, Inc.; Westinghouse Electric Corp., B-232565, B-232565.2, Jan. 10, 1989, 89-1 CPD ¶ 23. A&B has not established that the agency's trade-off, and its resulting selection of Gannon for award, was unreasonable.

The protest is denied.


James F. Hinchman
General Counsel